

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS FULLER, et. al.,

Plaintiffs,
v.

Civil Action No. 2:12-12371
HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT

DANIEL H. HEYNS, et. al.;

Defendants,

**OPINION AND ORDER GRANTING PLAINTIFF LEAVE TO PROCEED
WITHOUT PREPAYMENT OF FEES ON APPEAL**

The Plaintiffs filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. On June 22, 2012, this Court summarily dismissed the complaint without prejudice to the Plaintiffs each filing their own individual complaints. *See Fuller v. Heyns*, No. 2:12-CV-12371, 2012 WL 2374222 (E.D. Mich. June 22, 2012). Lead Plaintiff Curtis Fuller, a/k/a Raleem X¹ has now filed a Notice of Appeal.

28 U.S.C. § 1915(a)(3) indicates that an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that is not taken in good faith. *See also McGore v. Wrigglesworth*, 114 F. 3d 601, 610 (6th Cir. 1997).

In determining whether an appeal under the *in forma pauperis* statute is taken in

¹ Although the lead plaintiff lists his name as Raleem-X on the complaint, the Michigan Department of Corrections' Offender Tracking Information System (OTIS), which this Court is permitted to take judicial notice of, *See Ward v. Wolfenbarger*, 323 F. Supp. 2d 818, 821, n. 3 (E.D. Mich. 2004), indicates that Plaintiff Fuller is incarcerated under the name of Curtis Fuller and the Clerk of this Court captioned the case with this name.

good faith, the good faith standard is an objective one. *Nabkey v. Gibson*, 923 F. Supp. 117, 122 (W.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). The U.S. Supreme Court has interpreted good faith as stated in 28 U.S.C. § 1915 as simply meaning that the issue being appealed is “not frivolous.” *Davis v. Michigan Department of Corrections*, 746 F. Supp. 662, 667 (E.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. at 445).

Plaintiff Fuller’s appeal has been undertaken in good faith, in that the issues being appealed are not frivolous.

Accordingly, the Court will **GRANT** Plaintiff Fuller leave to appeal without prepayment of fees.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: September 4, 2012

The undersigned certifies that a copy of this document was served on the attorneys of record and Curtis Fuller by electronic means or U.S. Mail on September 4, 2012.

S/Linda Vertriest
Deputy Clerk